

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA; THE STATE OF MICHIGAN; THE STATE OF CALIFORNIA; THE STATE OF COLORADO; THE STATE OF GEORGIA; THE STATE OF INDIANA; THE STATE OF LOUISIANA; THE STATE OF MASSACHUSETTS; THE STATE OF MINNESOTA; THE STATE OF MISSOURI; THE STATE OF NEVADA; THE STATE OF NEW MEXICO; THE STATE OF NEW YORK; THE STATE OF OKLAHOMA; THE STATE OF TENNESSEE; THE STATE OF TEXAS; THE STATE OF VIRGINIA; and THE STATE OF WASHINGTON,

Civil Case No. 2:21-cv-10560

Honorable Sean F. Cox
Mag. Judge David R. Grand

Plaintiffs,

ex rel. DR. SARAH RILEY,

Plaintiff/Relator,

vs.

AVERTEST, LLC d/b/a Averhealth, a Virginia limited liability company,

Defendant.

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JOINT STIPULATION FOR DISMISSAL; CONSENT OF THE UNITED STATES OF AMERICA; CONSENT OF THE PLAINTIFF STATES

The United States of America, the States of Michigan, California, Colorado, Georgia, Indiana, Louisiana, Minnesota, Missouri, Nevada, New Mexico, New York, Oklahoma, Tennessee, Texas, and Washington, the Commonwealths of Massachusetts and Virginia (collectively, “Plaintiff States”), and Relator Sarah Riley, by their respective undersigned counsel, respectfully file this Joint Stipulation for Dismissal, pursuant to Fed. R. Civ. P. 41(a)(1)(A), 31 U.S.C. § 3730(b)(1), and in accordance with the terms and conditions of a Settlement Agreement fully executed on or about April 30, 2024, by the United States, Relator, and Defendant Avertest, LLC (“Avertest”), a copy of which is attached as Exhibit 1.

The United States and Relator stipulate as follows:

1. The United States and Relator have executed a written Settlement Agreement, in compromise and settlement of a portion of the United States and Relator’s claims against Avertest. This Stipulation of Dismissal is consistent with and subject to the terms of the Settlement Agreement.
2. Relator agrees that the amount and terms of the settlement are fair, adequate and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730, *et seq.*

3. The United States and Relator request, pursuant to Fed. R. Civ. P. 41(a)(1)(A), and 31 U.S.C. § 3730(b)(1), that the claims asserted by Relator in this action on behalf of the United States against Avertest, which are based on the Covered Conduct as defined in Recital E of the Settlement Agreement, be dismissed with prejudice as to both the United States and Relator.

4. Relator requests, pursuant to Fed. R. Civ. P. 41(a)(1)(A), that the remaining claims asserted by Relator on behalf of the United States against Avertest, as well as the claims asserted by Relator on behalf Plaintiff States against Avertest, in which claims the United States and the Plaintiff States have declined to intervene, be dismissed with prejudice to Relator and without prejudice to the United States. Pursuant to the False Claims Act, 31 U.S.C. 3730(b)(1), the United States hereby notifies the Court that the Attorney General of the United States of America consents to the dismissal of the declined claims against Avertest, provided such dismissal is without prejudice to the United States and with prejudice to Relator, based on a determination that such a dismissal is commensurate with the public interest.

5. All parties shall bear their own fees, costs, and expenses, except that Relator reserves her rights with respect to the payment by Avertest of Relator's attorneys' fees and costs pursuant to 31 U.S.C. § 3730(d).

6. A proposed order accompanies this Joint Stipulation for Dismissal.

Respectfully submitted,

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Dated: July 26, 2024

CONSENT OF THE PLAINTIFF STATES

Pursuant to Fed. R. Civ. P. 41(a)(1)(A), the Attorneys General of the Plaintiff States, by undersigned counsel with consent of the remaining Plaintiff States, hereby notify the Court that the Plaintiff States consent to the dismissal of this action without prejudice as to the rights of the Plaintiff States.

Respectfully submitted,

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Dated: July 26, 2024